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**Meeting of the Parties to the Convention
on Environmental Impact Assessment
in a Transboundary Context**

**Ad hoc Working Group on the Protocol
on Strategic Environmental Assessment
(Second session, Geneva, 26-28 September 2001)
(Item 2 of the provisional agenda)**

**ALTERNATIVE TEXTS FOR THE PROTOCOL ON STRATEGIC ENVIRONMENTAL
ASSESSMENT AS INCLUDED IN DOCUMENT MP.EIA/AC.1/2001/3**

Note by the secretariat */

PREAMBLE

-To include in the preamble:

“*Conscious* of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being and to avail of the highest level of protection of the environment and environment-related health,”

“Bearing in mind the obligation to establish environmental and environment-related health objectives in accordance with relevant international agreements and the need to take these into consideration in making strategic decisions and assessing their environmental and environment-related health implications,”

*/ As requested by the ad hoc Working Group at its first session (MP.EIA/AC.1/2001/2).

-For article 1 read:

Article 1

OBJECTIVE

The aim of this Protocol is to ensure that the protection of the environment and environment-related health forms an integral part of strategic decision-making and thus contributes to sustainable development. Accordingly, each Party shall establish at all appropriate levels, internationally, nationally, regionally and locally as well as in transboundary and non-transboundary contexts, a strategic environmental assessment mechanism. The mechanism shall provide for the early and ongoing integration of environmental and environment-related health implications of proposed strategic decisions into the decision-making process and for effective public participation, when all options are open, in accordance with the provisions of this Protocol.

-For article 2, paragraphs 7, 8 and 9, read:

Article 2

DEFINITIONS

[For the purpose of this Protocol,]

7. “Strategic environmental assessment” means a process to integrate the environmental and environment-related health implications of a proposed plan, programme, strategy, policy, regulation or legislative instrument into the strategic decision-making process;

- In paragraph 8 (a)

- For Government substitute Governmental bodies

9. “Implication” means a possible change in the environment or environment-related health directly or indirectly resulting from the proposed strategic decision. Included are changes in, inter alia:

(a) no changes in text

(b) no changes in text

For effect substitute implication throughout the text of this Protocol

Article 3

GENERAL PROVISIONS

- In article 3, paragraph 1 :

For other measures substitute other appropriate measures

- After paragraph 1, insert the following two new paragraphs:

“1bis In order to ensure the effective integration of environmental concerns into strategic decisions by means of strategic environmental assessment, each Party shall establish environmental and environmental-related health objectives and targets in the context of their national sustainable development strategies or national environmental action plans.”

“1ter Each Party shall, where appropriate, modify the planning and decision-making frameworks to facilitate the integration of SEA, environmental and environmental-related health considerations and public concerns into strategic decisions, in accordance with the provisions of this Protocol.”

- In article 3, paragraph 8

Before existing insert [changes to] and at the end add [and other strategic decisions, especially in the course of their review and modification]

- For article 4, paragraph 1, read:

Article 4

PUBLIC PARTICIPATION [IN STRATEGIC ENVIRONMENTAL ASSESSMENT]

1. Each Party shall take the necessary legislative, regulatory and other measures to establish and maintain a clear, transparent and consistent framework to ensure timely and effective public participation in [procedures for making strategic decisions for which strategic environmental assessment is required under this Protocol, including] the strategic environmental assessment procedure [itself]. The public shall [be entitled to] participate throughout the procedure in a manner and to the extent appropriate to the type of strategic decision and the procedural stage of the decision-making.

- In paragraph 2, after decision-making procedure insert from an early stage

- Delete paragraph 3.

- For paragraph 4, read:

4. Each Party shall identify the public concerned in accordance with article 2, paragraph 11 [and the environmental and health authorities for the purposes of this Protocol].

In paragraph 5, after inter alia, of insert annex IIa.

Transfer subparagraphs (a) to (d) to new annex IIa.

-For article 5 read:

Article 5

AREA OF APPLICATION

1. Each Party shall apply the provisions of this Protocol at international, national, regional and local levels and in transboundary and non-transboundary contexts, to strategic decisions

(a) On plans and programmes [likely to have significant implications in accordance with article 6] in key sectors such as transport, energy, agriculture, watermanagement, fisheries, forestry, waste management, tourism, industry (including extraction of mineral resources), military training grounds, telecommunications, spatial planning or land use, trade, nature conservation and modern biotechnology;

(b) On other plans or programmes likely to have significant implications in accordance with article 6; and

(c) On policies likely to have significant transboundary implications in accordance with article 6.

[2. Each Party shall endeavour to apply the provisions of this Protocol at international, national, regional and local levels and in transboundary and non-transboundary contexts, to strategic decisions on non-transboundary policies, strategies, legislation and regulations deemed likely to have significant implications in accordance with article 6.]

Or

[2. Each Party shall apply to strategic decisions on policies without transboundary significant implications, strategies, legislation and regulations the following articles of this Protocol;

- Article 3, paragraphs 1 to 6;
- Article 4, paragraph 1;
- Article 6, paragraphs 1 and 2;
- Article 8, paragraphs 1 and 2;
- Article 9 (without references to annex II);
- Article 12 (without references to article 10).

and shall, where relevant and to the extent appropriate, apply the other provisions of this Protocol.]

Or

[2. Each Party shall take the necessary legislative, regulatory and other measures so that the provisions of this Protocol should be applied to policies without significant transboundary implications, strategies, legislation and regulations.]

- For article 6 read

Article 6

SCREENING

- For paragraph 1 read:

1. Each Party shall determine whether a strategic decision as referred in article 5 is not likely to have significant environmental and or environment-related health implications, and thus be exempt from all or some of the articles 7 to 15 of this Protocol.

- For paragraph 2 read:

2. This decision can be undertaken either on a case-by-case basis or by specifying types of strategic decisions which do not have significant implications or by combining both approaches taking into account relevant criteria set out in annex I.

- Replace title of article 7 by:

Article 7

NOTIFICATION OF STRATEGIC ENVIRONMENTAL ASSESSMENT PROCEDURE

- In paragraph 1 for to article 6 substitute to articles 5 and 6

- In paragraph 1 for a competent authority substitute the public authority responsible for the strategic decision

- Add to paragraph 1:

A notification document shall contain as a minimum the information specified in annex IIa.

Article 8

SCOPING

- In article 8, paragraph 1,2 and 3, and throughout the Protocol for:
competent authority substitute public authority responsible for the strategic decision

- For article 9

Article 9

STRATEGIC ENVIRONMENTAL ASSESSMENT REPORT

- In article 9 and throughout the Protocol for strategic environmental assessment document substitute strategic environmental assessment report

- in the first sentence for article 6 substitute articles 5 and 6

- for the parties substitute each Party

- At the end add:

Parties shall make SEA reports available on the Internet and through other media facilitating wider public access.

Article 10

CONSULTATION

-In paragraph 1 add:

at least two months before the deadline for submission of comments referred to in paragraph 2.

-In paragraph 2 for to express their opinion substitute to submit comments

Article 11

QUALITY CONTROL OF SEA DOCUMENTATION

-Delete article 11 and move text to article 14 before paragraph 1.

Article 12

DECISION

- In article 12 for strategic assessment substitute strategic environmental assessment'

Article 13

ACCESS TO JUSTICE

-For paragraph 1 read:

1. Each Party shall ensure that members of the public concerned have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of (i) the decision on screening in accordance with article 6, (ii) the decision on scoping in accordance with article 8, and (iii) the preparation and content of any strategic environmental assessment documentation prepared in accordance with article 9.

Put square brackets around paragraph 2.

- For article 14

Article 14

QUALITY CONTROL AND MONITORING

- Insert before paragraph 1 the text of article 11 as paragraph 1α.

- In paragraph 4 for biennial basis substitute every [two] [four] years

Annex I

- In the title, for article 5 substitute article 6

Annex II

- In the introductory sentence, delete information in the

- Insert a new subparagraph (...)

(...) Identify the changes in the achievement of environmental and environment-related health targets, goals and timetables set out in the national environmental (sustainable development) strategy which may result from the implementation of the strategic decisions;

- In subparagraph (e), for document drafted substitute strategic decision

- For subparagraph (f) read:

(f) Identify, analyse and assess the likely significant implications on the environment and environment-related health, including positive and negative, cumulative and indirect effects at local, regional, global levels for a short and long duration;

- In subparagraph (g) after measures insert to enhance positive effects or